

**MINUTES
TOWN OF INDIAN RIVER SHORES
REGULAR TOWN COUNCIL MEETING
Thursday, April 28, 2005**

PRESENT: Thomas W. Cadden, Mayor
David J. Becker, Vice Mayor
William H. Ahrens
Frances F. Atchison
E. William Kenyon

STAFF PRESENT: Chester Clem, Town Attorney
Robert J. Bradshaw, Town Manager
Barbara Readdy, Town Clerk
Richard Jefferson, Building Official
Hugh Cox, Director of Public Safety

Also Present: Gerard Weick, Chairman, PZV Board
Lester Solin, Solin and Associates, Town Planner

The regular Town Council meeting was called to order by Mayor Cadden on April 28, 2005 at 3:30 p.m.

Pledge of Allegiance
Invocation - Councilman Becker
Roll Call

Consent Agenda:

- a. Approval of Regular Town Council Meeting Minutes of March 31, 2005
- b. Approval of Special Town Council Meeting minutes of April 7, 2005
- c. Accepting and Filing of Planning, Zoning and Variance Board Minutes of April 11, 2005 (Draft copy)

Corrections were made to the draft of the Planning Board minutes of April 11, 2005 submitted for filing, Mayor Cadden reported. A corrected copy of the minutes was submitted by Chairman Weick at the Council meeting. He directed Council to Agenda Item #2, and read the corrected motion. He also referred to an item on the last page that read "500 miles," and should have read "500 feet."

Mr. Weick requested that the minutes not be submitted to the Town Council until they had been approved by the Planning Board. As a result, the minutes that are placed on the Town Council agenda will be for the previous month's meeting. This was agreed upon by the Town Attorney and the Town Council.

Following discussion, a **MOTION** by Mr. Kenyon, supported by Mrs. Atchison, to accept the Consent Agenda as presented. Motion carried with unanimous voice vote.

Mayor's Items:

A **MOTION** by Mr. Kenyon, supported by Mr. Ahrens, to approve and accept the Proclamation on Civility as read by Mayor Cadden. Motion carried with unanimous voice vote.

A **MOTION** by Mr. Kenyon, supported by Mr. Ahrens, to adopt Resolution No. 05-09, supporting proposed amendments to review the Florida Sales Tax Exemptions. Motion carried with unanimous voice vote.

Planning, Zoning and Variance Board:

a. Appeal of Denial of variance, Hayne property, 210 Shady Oak Lane, John's Island

Mr. Weick, Chairman of the PZV Board, gave the details of the request for a variance for the Hayne property. He reported to Council that the PZV Board had approved a rear setback variance to the rear of the existing home to bring it into setback compliance. A **MOTION** by Mrs. Atchison, supported by Mr. Ahrens to approve the variance for the existing building to bring it into setback compliance. Motion carried with unanimous voice vote.

In addition, the property owner is also looking for a second variance to build a small triangular addition into the setback, approximately 24 square feet in diameter. The Planning, Zoning and Variance Board voted to deny this variance, in the belief that it may set a precedent. George Bollis, Jr., Architect, represented Mr. and Mrs. Hayne stating that because of the uniqueness of this project, setting a precedent would not be a concern. He added this is in the rear and not violating side or front setbacks. John Barker, General Manager of JIPOA, and a member of the Architectural Review Committee (ARC), spoke on behalf of this variance, stating that following review, the Silver Moss Association and the ARC recommend its approval. Attorney Clem reminded Council that in a proceeding for a variance the burden is on the applicant to show some type of a proven hardship and variances are granted, for example, to avoid tearing down a house that is not in compliance. In this appeal, Council is being asked to approve a variance to allow new

construction in a setback zone. Mayor Cadden added he believes this would set a precedent. Following Council discussion, a **MOTION** by Mr. Kenyon, supported by Mr. Ahrens to deny the variance to allow a small triangular addition approximately 24 square feet to be constructed to cross the rear setback.

Roll Call Vote:	Mr. Kenyon	Yes
	Dr. Becker	No
	Mr. Ahrens	Yes
	Mrs. Atchison	Yes
	Mayor Cadden	Yes

Motion carried 4-1.

B. Presentation on Providence Subdivision

Mr. Weick introduced David Knight, Knight, McGuire & Associates. Mr. Knight explained to Council that this would be a presentation for information only, and would not require action by the Board. He introduced Greg Munson, Project Manager for McGough Development and Bak Baker, the inhouse Architect for McGough Development.

Mr. Munson reported they would be reviewing the PRD development plan for Council, demonstrating the value that a PRD approach brings to the project. Mr. Munson assured Council they were making all the revisions required by the Town .

Mr. Baker acknowledged their awareness of an obligation to do the very best they can to create a very high quality development. They have assembled a local team of people consisting of Norris and Company, real estate consultants, David Knight, Civil Engineer, Warren McCormick, Landscape Architect, and an Architectural Design Firm and Land Planner, the Evans Group from Orlando. The plan they are presenting reflects a consensus from the whole group that this is the best way to go. They are focusing on quality rather than quantity. Mr. Baker stated their approach to projects is collaborative, seeking input and welcoming further discussion.

Mr. Knight explained the due diligence they are applying in this project, and the reasons for the present design. He proceeded to demonstrate through conceptual drawings the positives of their plan; i.e., green space, lot sizes, setbacks, entry statement, units per acre, etc. Mr. Knight stated this project is significantly lower in density that the adjacent PRD.

The project exceeds all the requirements for open space both in the Code, and as suggested by Lester Solin, Town Planner, that should be in the Code. They intend to lift up the existing oak trees to finished grade elevations. Mr. Knight reported that the Planning Board and the Chairman had been very helpful, and after discussions with Mr. Weick they dropped twelve westside units overall and a couple of oceanfront units, they

revised and increased buffers surrounding the property, increased lot sizes, increased side and front setbacks, and revised other things that the PZV Board thought were of a concern or would be more appropriate.

Mr. Baker detailed other changes and adjustments made by their firm. He spoke about the design character and defined it as an Anglo-Caribbean style; that is, informal elegance with multiple roof forms, a mix of materials, stucco and siding and a variety of window shapes and treatments. Mr. Baker reviewed through drawings the various elevations for the project, and reiterated that they welcomed Council's input, and that the project is much improved through meeting with the Planning, Zoning and Variance Board.

Town Attorney:

a. Second Reading - Annexation Ordinance No. 476. A **MOTION** by Mr. Kenyon, supported by Mr. Ahrens, to table the second reading of Ordinance 476. Motion carried with unanimous voice vote.

b. First Reading and Public Hearing - Ordinance No. 477 to amend the Comprehensive Plan. A **MOTION** by Mr. Ahrens, supported by Mrs. Atchison, to approve Ordinance No. 477, to amend the Comprehensive Plan. Motion carried with unanimous voice vote.

c. Boat Mooring issues - Attorney Clem explained it was brought to his attention that the Public Safety Department had a problem with the mooring of at least one boat within the waters of the Town's limits, and we have no ordinances that keep people from living aboard or anchoring off etc., within the Town's limits; yet quite a bit of the Indian River is within the Town's limits. Attorney Clem reported that every community on the Indian River has a law or ordinance addressing this issue except our Town. Council directed Attorney Clem to bring back an ordinance for first reading at the next meeting .

Mayor Cadden also asked Attorney Clem to address the need to change our Charter with respect to Charter officers. Attorney Clem explained that our Town has a strong City Manager form of government and yet our Charter has a Town Building Official, Town Clerk and Town Manager all on the same level. Our Charter has never been updated since it has been adopted and it needs to be reviewed, to make sure we are operating under our Charter. Mr. Bradshaw reported that he is proposing a Charter Review Committee composed of the Town Attorney, Town Clerk, Town Manager and one elected official from the Council. Mrs. Atchison accepted the elected official's position on the Charter Review Committee.

Town Manager:

a. The Estuary Channel Dredging Project

Mr. Bradshaw explained this was a proposed maintenance dredging of the channel, approximately 229 cubic yards of dredge material, to benefit the Public Safety dock as well as the Estuary development. The Estuary has agreed to pay all the associated costs with this project. They are asking that the Town act as the applicant for the permitting process on this project, with the partnership that the Town is in with the Estuary as far as the Public Safety boat dock is concerned. He introduced Dean Luethje, the Engineer for Carter Associates, Inc. who presented a map showing the existing channel and the proposed dredging area. He reported that the dredging depth has been reduced to three feet; that is, to a minus three foot elevation so that the smaller boats and the boats of the size that are in the Estuary can utilize the channel without hitting the bottom. The amount to be dredged is approximately 229 cubic yards and will be done with a barge and a backhoe on the barge. The dredge material will be brought back up to the Estuary's property across the canal from the existing Estuary and it will be trucked out from Fred Tuerk Drive and off site. They are asking the Town to sign the application for the FDEP and the U.S. Army Corps of Engineers, and the Estuary is guaranteeing total payment of all the expenses. The Town would take all responsibility for processing the application. In response to a question, Mr. Bradshaw added we are obligated to do this because of the funding we have received from the Florida Inland Navigational District (FIND) grant to purchase the Public Safety boat. Part of the criteria for the grant was to keep the channel open. Attorney Clem added that the only thing we are committing to do is to file the application for the permit. This is a small area in a marked channel, marked by the Coast Guard, and for our Public Safety patrol boat it is a real problem navigating out through a marked channel to get to the intercoastal waterway to do their job.

Following Mr. Luethje's presentation, a **MOTION** by Mr. Kenyon, supported by Mr. Ahrens, that the Town be the applicant. Motion carried with unanimous voice vote.

b. Presentation on Public Safety Accreditation

Mr. Bradshaw explained that the Public Safety Department is seeking accreditation and introduced Deborah Moody, South Florida Manager and District Representative of the Florida Accreditation Board. Ms. Moody stated they are a not-for-profit 501C3 Corporation established by Florida Statute in 1993, and gave a brief background on the corporation. In response to the question why be accredited, a law enforcement agency should be accredited just as a college or hospital is accredited. 124 agencies have been accredited in the State of Florida; of the 124, 117 have maintained their accreditation. One of their goals is to accredit 100% of the agencies in the State of Florida by the year 2020. They have 272 standards; 153 are mandatory, the rest are optional. The standards address high liability topics, laws, statutes, and generally good business practice. Topics

addressed range from use of force, pursuit, organization, evidence function, patrol function, training, racial profiling, promotions, etc. Their purpose is to make sure the Department addresses these issues. Accreditation makes the Department accountable to the Town Manager and the Town Council. It is a ruler by which you can measure how well your Public Safety Department is doing their job. It is a 24 month process. Each and every one of the 272 standards will be reviewed to make sure the Department's policies reflect the standards. At the end of the 24 months, there will be an onsite assessment where three assessors will be chosen to come in and review all of the standards and conduct intensive interviews. If the agency is in compliance with the policies, their Commission would vote on accreditation and then the process would start once again for re-accreditation. Indian River County, Vero Beach and Sebastian police departments are accredited and they have all expressed their willingness to assist us in achieving accreditation. In response to a question, Chief Cox stated he recommended that we pursue accreditation. Program cost would consist of a \$500 initial fee, \$100 for a software program, and an optional additional program that would be available for a \$250 application fee and \$200 per year. Budgetary costs are estimated at \$40,000-\$45,000 for FY 05/06, with 95% being attributed to labor costs. It would require Capt. Schauman coming off a shift and being the accreditation manager working with Ms. Moody and the Commission. His position on the shift would be supplemented for the upcoming fiscal year by using per diem personnel. Once the initial accreditation is achieved, two years out we would need to bring another full time person on board. Mr. Bradshaw added that the \$15,000 already in this year's budget for an efficiency study could be used to initiate the accreditation process.

A **MOTION** by Dr. Becker, supported by Mrs. Atchison, to authorize the Public Safety Director to go forward with the accreditation process. Motion carried with unanimous voice vote.

c. Salary Adjustments - Town Treasurer and Town Clerk

A **MOTION** by Mr. Kenyon, supported by Mrs. Atchison, to increase the Town Treasurer's base salary to \$63,000 and the Town Clerk's base salary to \$53,000, retroactive to October 1, 2004. Motion carried with unanimous voice vote.

d. Acceptance of resignation and appointment of Chairman to Building & Grounds Committee.

A **MOTION** by Dr. Becker, supported by Mr. Kenyon, to accept the resignation of Bob Guterma from the Building & Grounds Committee. Motion carried with unanimous voice vote.

A **MOTION** by Mr. Kenyon, supported by Dr. Becker, to appoint Ital Veron as Chairman of the Building & Grounds Committee. Motion carried with unanimous voice vote.

A **MOTION** by Mr. Kenyon, supported by Mr. Ahrens, to abolish the Ad Hoc Building Committee. Motion carried with unanimous voice vote.

Call to Council:

a. Indian River Land Trust

Councilman Kenyon reported that several neighbors are in the process of putting together a total amount of approximately \$750,000 for the downstroke on 110 acres of land at the end of Fred Tuerk Drive. They want the Town to support this. The option they have is to go with the Town or with the County. The last thing the Council would want is for the County to take over 110 acres in the middle of our Town. This would be a natural, environmental area with walk-throughs. Mr. Kenyon introduced Ken Grudens, Executive Director of the Indian River Land Trust, gave some background on the Land Trust, explaining it is a not-for-profit land conservation organization. Primary mission is to protect and link natural areas, agricultural lands and special places by working with landowners to preserve meaningful tracts of land. The brochure Mr. Grudens handed out detailed the history and accomplishments of the Land Trust over the past years.

Mr. Grudens began by defining the opportunity that exists; that is, immediately surrounding the communities in this Town, specifically The Estuary, John's Island and Bermuda Bay, is an undeveloped 108 acre property situated on the Indian River Lagoon. This property is a myriad of uplands and wetlands and adjacent waterways, and right now it is potentially slated for development as part of the third phase of The Estuary. That could involve 21 homes potentially situated along the Indian River Lagoon. There is also a real opportunity to purchase this parcel with State grant funds and protect it forever; in doing so, this neighborhood property would be owned by the Indian River Land Trust and open to the public normally from dawn to dusk, for walking, bird watching and other conservation related activities. This is a unique opportunity for Town and County residents to have direct access to the Indian River Lagoon. The residents would have an opportunity to walk down or drive down to the end of Fred Tuerk Drive and watch the dolphins or pelicans or whatever. The Land Trust role would be to submit an application to the State which they will be doing next week and as part of this application the Land Trust is required to privately raise funds of \$750,000 for the long term management of this property. These funds will be used to help develop plans for boardwalks, benches, a canoe launch, wildlife observation platforms, and a parking area at the base of Fred Tuerk Drive with an information kiosk as part of that. This project is separate from the County's LAAC program.

Mr. Grudens explained that when the Land Trust applies for funds to the Florida Communities Trust (FCT) the State requires certain assurances that such a conservation property is protected in perpetuity. Specifically, the State requires a resolution from a municipal governmental entity stating that in the case the Land Trust were to dissolve,

this entity would be willing to hold and manage the property as a publicly accessible conservation area as its been developed. Mr. Grudens is looking for the Town to be that entity since this property is totally within the Town. The other option is that the County do this, which is certainly a viable option. In response to a question, Mr. Grudens saw the annual maintenance cost as \$3,000 to \$5,000 per year in maintaining this area. If we were to become the default entity, Attorney Clem expressed a concern as to the intensity of use by people outside of the Town. He added that whoever takes custody or charge of the area would be the liable party. Mr. Grudens added that if for any reason the land is not purchased by the Land Trust, they would not be using any pledges received for the Stewardship Endowment and any commitments made by the Town would be null and void.

Mr. Ahrens questioned how much the Land Trust was purchasing the property for and Mr. Grudens responded it has not been purchased as yet and the discussions that are on going to purchase this property from the landowner are confidential. The money to purchase the property would come from the FCT which has annually 66 million dollars a year for different properties around the State. The grant application is due May 5, and Mr. Grudens is looking for some clear indication by the Council that they would be willing to pass a resolution, and if not a resolution, if the Council would prepare a letter stating they would support playing the role and developing a resolution at the next meeting that would suffice.

Mayor Cadden expressed concern that there is not enough information available to Council in order to support this endeavor. Mr. Kenyon expressed two concerns: first, that the neighbors have already pledged \$500,000, and that the County is very interested in this property.

Following lengthy discussion, a **MOTION** by Mrs. Atchison that the Council and the Town of Indian River Shores support the Indian River Land Trust application for the 108 acres in the Indian River Lagoon Conservation area. Motion failed for lack of a second.

b. Request to re-examine the traffic light at A1A and Bahia Mar

Councilman Kenyon stated he had received a number of comments about the traffic on the A1A bottleneck at Bahia Mar Road. He spoke with the State Department of Transportation (DOT) and following discussion, it became apparent they would be happy to come back and look at it. Mr. Kenyon is requesting Council to ask the DOT to take a look at the situation. Mr. Kenyon would make a motion that the Council write a letter or a resolution in that regard to re-survey it. Mr. Weick added that the survey should be made during the season. The biggest problem is the turning lane. His suggestion is to eliminate the turning lane.

Following discussion, a **MOTION** by Mr. Kenyon, supported by Mr. Ahrens, to send a

letter to the Department of Transportation to re-survey the light at A1A and Bahia Mar Road.

Roll Call Vote:	Mr. Kenyon	Yes
	Dr. Becker	No
	Mr. Ahrens	Yes
	Mrs. Atchison	No
	Mayor Cadden	No

Motion failed 2-3.

c. Committee Reports

Council of Public Officials - Councilman Kenyon reported that this Committee is becoming more a Council of the elected officials of the towns and cities within Indian River County. The County is not particularly in favor of this because it forms a lobbying group for the towns and cities; therefore, they withdrew from the Committee. The meetings are now being held in the Council Chambers of the City of Vero Beach. They are reorganizing around those issues. One of the big problems is the impact fees. The problem being that all of the money goes to the County and depending on the city, various cities have different needs that they believe would entitle them to some of those funds. Second, if any one of the constituents in the group turns it down, the whole program goes down. In its place, the Florida League of Cities has come up with a real estate transfer tax. This makes a lot of sense to our Town. We will not be doing much building, but there are many, many real estate transactions in our Town. The impact fees will not make a lot of difference to our Town but this program would. Mayor Cadden added that the Florida League of Cities is supporting this, but the Council and interested parties have to get to the legislators to make it happen. The other concern involved water and the serious limitations in the use of it.

Metropolitan Planning Organization (MPO) - Dr. Becker reported they met and the two items on the agenda included a review of the transit development plan update required by the State every three years. Second, the MPO, based on the requirements of the Federal Highway Administration, created a Continuity of Operations Plan (COOP) to ensure continued operation of the MPO in the event of an emergency.

Treasure Coast Regional Planning Council - Mr. Ahrens reported there were three basic presentations made; workforce housing, long term transit funding for the Southeast Florida region, and an orientation series for Committee members on Town planning and development.

Land Acquisition Advisory Committee (LAAC) - Mrs. Atchison reported that the Chairman announced the Board of County Commissioners had ratified the ranking

system, as recommended by LAAC, on April 5. The Committee has been conducting field visits in anticipation of those criteria being aproved. Mrs. Atchison submitted a written report.

Treasure Coast Council of Local Governments

Mayor Cadden reported they met and the noteworthy item involved the collection of debris in private communities after the storms. It would be a change for FEMA and extremely important for our Town.

Councilman Kenyon referred to the Town's disaster program. Mr. Bradshaw briefly spoke to Council explaining the extent of the Town's involvement in preparing an all encompassing debris and disaster plan, to include hiring a consultant to assist us in its preparation. He reported to Council that the Chief, the Mayor and he had met with the consultant on April 15 to initiate the process. The first component will be the debris master plan, which will take sixty to ninety days, then based on our current hurricane plan, we will build off of this to streamline and modify it to include what we have learned from the events of this past year. Mayor Cadden directed that when a sufficient amount is completed, a workshop will be scheduled. Mr. Bradshaw added that this has been pushed back to September or sometime after hurricane season, so the hurricane plan we have now will be our guideline if we have a storm event this year.

Meeting adjourned at 5:50 p.m.

Barbara A. Readdy, Town Clerk